IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.8021 OF 2006

Hindurao G. Mengane : Petitioner

V/s.

Baburao Dadu Mangene & Anr. : Respondents

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Mr.Rajesh B. Parab for the petitioner.

Mr.P.D.Dalvi for respondent no.1.

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CORAM : S.A.BOBDE, J.

DATE : JULY 4, 2007.

P.C.

1. Rule, returnable forthwith. Mr.Dalvi waives service for the respondent no.1. Heard by consent.

2. By this Writ Petition, the petitioner has challenged the impugned order dated 15.6.2002 by which the IIIrd Ad-hoc Addl. District Judge, Kolhapur, set aside the earlier order under Order XXI Rule 89 by which the sale in favour of the respondent no.1 was set aside. There is no merit in this Writ Petition since the application for setting aside the sale was made under Order XXI Rule 89 by the petitioner without making any application for condonation of delay since this application was allowed.

Even though there was no application for condonation of delay, the respondent no.1 had challenged that order before the IIIrd Ad-hoc Addl. District Judge, Kolhapur, who had allowed the respondent's appeal and set aside that order which is the impugned order. Admittedly, no application for condonation of delay has been filed at any point of time. Hence, there is no reason to interfere.

3. The writ petition is dismissed. Rule stands discharged.

S.A. BOBDE, J.